

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ACCERIS COMMUNICATIONS CORP.	DOCKET NOS. TCU-04-14 WRU-04-43-3708
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**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,  
AND GRANTING WAIVER**

(Issued October 27, 2004)

On September 14, 2004, Acceris Communications Corp. (Acceris) filed an application with the Utilities Board (Board) for issuance of a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2003), stating its intention to provide local exchange service in the exchanges currently served by Qwest Corporation (Qwest) and Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom). The application has been identified as Docket No. TCU-04-14. Acceris has provided financial statements and the qualifications of its company officers and has stated it will support a 2-PIC dialing methodology for dialing parity. No objections to the application were received.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest."

The Board has reviewed Acceris' application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. Acceris does not indicate how it will utilize telephone-numbering resources when providing local exchange service. Because telephone numbers are not an unlimited resource, if the incumbent local exchange carrier has implemented thousands-block number pooling (TBNP) in exchanges served by Acceris, then Acceris must commit to utilize thousands-blocks of telephone numbers as opposed to ten-thousand blocks of numbers (commonly referred to as an "NXX"), even in those areas where TBNP is voluntary, whenever it is technically feasible. The Board will approve Acceris' application at this time provided that Acceris files a statement within 30 days of the date of this order agreeing to participate in TBNP wherever technically feasible.

Acceris also states that its service area will mirror the service territories of exchanges and service area maps of Qwest and Iowa Telecom as they are currently filed and may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which landline local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries. The Board finds that Acceris has complied with the statutory and rule requirements by concurring in the exchange maps of Qwest and Iowa Telecom.

Acceris requests the Board waive the requirements of 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver request has been identified as Docket No. WRU-04-43-3708.

Acceris requests a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. Acceris states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted, since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

Acceris also requests the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based on Acceris' statement that it will make the records available to the Board upon request.

Finally, Acceris requested a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant this waiver based upon Acceris' statement that it will arrange for its customers to be included in the directories published in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded

after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship on Acceris because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal protection for the public health, safety, and welfare provided since the actions waived will be completed under different circumstances.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by Acceris Communications Corp., on September 14, 2004, is granted.
2. The concurrence in the maps and boundaries of the exchanges of Qwest Corporation and Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, is approved.
3. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-04-43-3708, is granted as described in this order.

4. Within 30 days of the date of this order, Acceris Communications Corp., shall file with the Board a statement agreeing to participate in thousands-block number pooling where technically feasible.

5. The Board will issue a certificate of public convenience and necessity allowing Acceris Communications Corp., to provide local exchange service upon approval of tariffs reflecting the prices, terms, and conditions of Acceris Communications Corp.'s local exchange service in Iowa.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 27<sup>th</sup> day of October, 2004.